(31)

HIGH COURT OF CHHATTISGARH, BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No. 1474 of 1993

Petitioner : Kejuram S/o Ganesh Yadav, Budhwari Para Ward No.4, Dongargarh, District Rajnandgaon, M.P.

Vs.

Respondents

1. The Manager, M/s Chhotalal Keshawram, Gaya Chhap Beedi Company, Branch Dongargarh, District Rajnandgaon, M.P.

2. The Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, Cum Assistant Labour Commissioner, Raipur Labour Division, Raipur, M.P.

Petition under Articles 226 and 227 of the Constitution of India.

Present: Shri Pankaj Agrawal, counsel for the petitioner.
Shri V.G.Tamskar, counsel for respondent No.1

ORAL ORDER
(Passed on 25th April, 2007)

The petitioner was employed by the respondent No.1 for the purpose of rolling and roasting of Beedies. Since the petitioner had not performed the job of roasting of Beedies, the respondent No.1 by his order dated 05-06-1986 had terminated the services of the petitioner. Aggrieved by the said order, the petitioner had approached the First Appellate Authority as provided under the Rule 31 (2) (a) of Beedi and Cigar Workers (Conditions of Employment) Act, 1966, (for short 'the Act').

(2) The First Appellate Authority having come to the conclusion that the order of dismissal/termination passed by the first respondent was illegal and in violation of natural justice had allowed the appeal and had directed the first respondent to reinstate the petitioner into service only for the purpose of rolling of Beedies.

32

(3) Aggrieved by the orders and directions issued by the First Appellate Authority, the petitioner had filed a review petition inter alia requesting the authority to review his order and to direct the first respondent to reinstate the petitioner into service for performing functions of rolling and roasting of Beedies. That review petition was rejected by the first respondent that is why, the petitioner is before me in this writ petition, since the orders passed by the authority under Section 31(2)(a) is final.

(4) Though the respondents are served with the notice, respondent No.1 is not represented by any learned counsel before this Court.

(5) The order of termination passed by the first respondent would clearly demonstrate that the petitioner was performing the function of rolling and roasting of Beedies. Since he had not performed the function of roasting of Beedies, the first respondent/employer without holding any inquiry whatsoever had terminated his services. That order had been questioned by the petitioner before the First Appellate Authority. The First Appellate Authority had taken exception to the orders passed by the first respondent and therefore, had directed the first respondent to reinstate the petitioner into service and while doing so, the First Appellate Authority was expected to direct the first respondent to reinstate the petitioner into service for discharging the function which he was discharging earlier. In the present case, the First Appellate Authority while directing the first respondent had only directed him to allow the petitioner to discharge the function of rolling of Beedies and not of roasting of Beedies. This, in my opinion, is incorrect and illegal. Therefore, the orders passed by the second respondent requires to the modified. Accordingly, the following:

33

Order

(i) Petition is allowed.

(ii) The Rule is made absolute.

(iii) The order passed by the First Appellate Authority is modified and a direction is issued to the first respondent to reinstate the petitioner into service for the purpose of rolling and roasting of beedies within a month's time from the date of receipt of a copy of this Court's order.

(6) For other monetary benefits etc. the petitioner shall now approach the first respondent by filing an appropriate application/representation. Ordered accordingly.

Sd/-
Chief Justice